

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

LOUIS ONG,

Defendant.

NO. CR17-191 RSL

GOVERNMENT'S SENTENCING
MEMORANDUM

The United States of America, by and through Annette L. Hayes, United States Attorney for the Western District of Washington, and Joseph C. Silvio, Special Assistant United States Attorney for said District, respectfully submits this memorandum regarding the sentencing of LOUIS ONG, scheduled for May 11, 2018, at 11:30 a.m.

For the reasons that follow, the government joins in the recommendation of U.S. Probation and requests that the Court sentence the defendant to a custodial term of twelve months and one day, followed by a three-year term of supervised release.

I. FACTUAL AND PROCEDURAL BACKGROUND

In December 2016, Special Agent (SA) Judson Scott, Homeland Security Investigations (HSI) Seattle, responded to an advertisement regarding the buying and selling of bitcoin through various means – to include the U.S. Mail and in-person

1 exchange. PSR at ¶ 7. After an exchange of text messages between the poster of the
2 advertisement – determined by investigation to be LOUIS ONG – and SA Scott, a bitcoin
3 deal was set-up for December 15, 2016. *Id.*

4 On December 15, 2016, ONG and an HSI undercover agent (UCA-1) met at a
5 McDonald's restaurant in Tukwila, Washington. *Bates* 007. During the meeting, an HSI
6 UCA exchanged \$12,000 in U.S. Currency (hereinafter "U.S. Currency" or "USD") for
7 bitcoin. *Id.* ONG provided UCA-1 with bitcoin worth approximately \$11,123.83 USD.
8 *Id.*

9 On February 1, 2017, UCA-1 again met with ONG for the purpose of exchanging
10 U.S. Currency for bitcoin. *Bates* 007; 636. Prior to the transaction, ONG was informed
11 that the \$50,000 USD that were being exchanged for bitcoin were illicit in nature. PSR at
12 ¶ 9; *Bates* 636. When UCA-1 disclosed this fact, ONG explained:

13 I don't know anything about that, so, what you just told me, like, went over my
14 head. I didn't hear that. So there is one thing I tell people is I don't really care
15 what, ah, they use the bitcoin for . . . The only thing is, I just like, ah, because for
16 me it's better that I actually don't know. Cause then I can have plausible
17 deniability. Cause at the same time, cash can be used for anything, right? So
18 really, yeah, I just, I didn't hear that.

17 *Id.* Despite the representations made by UCA-1, ONG continued with, and completed,
18 the transaction – charging slightly over 9% for the transaction. *Id.*

19 On March 7, 2017, after conducting another \$20,000 transaction with another HSI
20 UCA on March 1, 2017, ONG sent SA Scott the following text message:

21 I have a request. I am not interested in what you buy or sell btc for, so please
22 do not mention it or have your friends mention it either. In both cases your
23 operatives tried to discuss with me what your operations are. Not interested
24 and don't have the time. I am just a private investor who sells btc to other
25 investors. As far as I know you're just an investor. Let's keep it that way.

25 PSR at ¶ 9; *Bates* 124.

26 On May 10, 2017, HSI agents encountered ONG parked near their office
27 spaces in Blaine, Washington. *Bates* 032. In plain view, an HSI SA could see that
28

1 ONG was passing U.S. Currency through a money counter located in the
2 passenger seat of the vehicle.¹ *Id.*

3 During the encounter, ONG agreed to speak with law enforcement and
4 acknowledged that he had just received \$45,000 in USD from an unknown subject
5 from Arizona. *Id.* ONG stated that he had only conducted a few cash-for-bitcoin
6 deals through the mail. *Id.* He specifically did not mention any of the face-to-face
7 cash-for-bitcoin deals that he had conducted with HSI UCAs in late 2016 or early
8 2017. *Id.* ONG was told that he needed to register as a money remitter with
9 FinCEN.

10 On June 1, 2017, ONG called HSI Blaine and informed an HSI SA that he
11 had registered with FinCEN as an MSB. *Bates* 039.

12 On June 12, 2017, despite having just filed registration documents with FinCEN,
13 ONG again met with individuals who were represented to be members of SA Scott's
14 organization. *Bates* 041. The purpose of the meet as communicated by SA Scott to the
15 defendant was to discuss the use of bitcoin as a means of moving drug proceeds from the
16 U.S. to Mexico and to exchange \$20,000 USD for bitcoin. *Id.* During this meeting, the
17 defendant again mentioned to HSI UCAs that he needed to maintain "pd" or "plausible
18 deniability. *Id.*; *Bates* 638.

19 On July 7 and 21, 2017, the defendant again engaged in an anonymous face-to-
20 face bitcoin exchange with an HSI UCA. The deal on July 9, 2017, was for \$9,000 USD.
21 *Bates* 652. The exchange on July 21, 2017, was planned to be for \$400,000 USD. *Bates*
22 661-62. ONG was arrested after the first transaction involving \$200,000 of cash-for-
23 bitcoin. *Id.*

24 Ultimately, over the course of the seven-month investigation, ONG engaged in six
25 face-to-face transactions with HSI UCAs. PSR at ¶ 10. He also engaged in one cash-
26 through-the-mail transaction. *Id.* The total value of the U.S. Currency that ONG
27

28 ¹ This encounter was not based upon surveillance or investigation, but rather, pure chance.

1 received during these transactions was \$311,000. *Id.* at ¶ 8. At no point during any of
2 the transactions – even after he registered with FinCEN on or about May 31, 2017 – did
3 the defendant in any way attempt to comply with the “know your customer” / anti-money
4 laundering requirements mandated for Federally or State licensed money service
5 businesses. *Id.* at ¶ 9.

6 II. CURRENT CHARGES AND PLEA AGREEMENT

7 On August 16, 2017, the defendant was indicted by Grand Jury in the Western
8 District of Washington for five counts of Money Laundering, in violation of 18 U.S.C.
9 §§ 1956(a)(3)(B) and 2; and Operating an Unlicensed Money Transmission Business, in
10 violation of 18 U.S.C. §§ 1960(b)(1)(A), and 2. Dkt. 16.

11 On February 15, 2018, pursuant to a plea agreement under Federal Rules of
12 Criminal Procedure 11(c)(1)(A) and (B), the defendant pleaded guilty to Count 6 of the
13 Indictment. Dkt. 36. Per the plea agreement the government agreed to limit its sentence
14 recommendation to eighteen months, and also agreed to move for dismissal of Counts 1 –
15 5 of the Indictment at the time of sentencing. *Id.* at ¶¶ 10, 14.

16 III. ADVISORY GUIDELINES RANGE

17 In the plea agreement, the parties agreed that certain Guidelines factors applied to
18 the defendant’s conduct. *Id.* at ¶ 9. However, pursuant to the plea agreement, the parties
19 were free to also seek application of additional Sentencing Guidelines. *Id.*

20 The government agrees with the conclusion of U.S. Probation that in addition to
21 the sentencing factors enumerated in Paragraph 9 of the plea agreement, USSG
22 § 2S1.3(b)(1) also applies in this case. PSR at ¶ 19. The government also agrees with
23 U.S. Probation’s total offense level calculation of 20. *Id.* ¶ 23. With a criminal history
24 category of I, and a three-level reduction for acceptance of responsibility, the
25 corresponding guidelines range is 24 – 30 months. *Id.* at ¶ 62.

26 IV. 18 U.S.C. § 3553 ANALYSIS

27 The government recommends that the Court sentence the defendant to a total term
28 of imprisonment of twelve months and one day, followed by a three-year term of

1 supervised release. This recommendation is based on the factors set forth in 18 U.S.C.
2 § 3553(a), with a particular focus on the nature and circumstances of the offense, the
3 defendant's history and characteristics, the need to deter similar conduct, protect the
4 public, and promote respect for the law.

5 **1. Nature and Circumstances of the Offense.**

6 The nature and circumstances of the offense warrant a significant period of
7 incarceration. The evidence obtained during the investigation indicates that the defendant
8 operated an unlicensed money transmission business over the course of nearly two years.
9 While the offense of conviction may appear to be more of a technical violation of law, it
10 is clear based upon the defendant's interactions with HSI UCAs, why such conduct is
11 criminalized. In short, such cryptocurrency transactions can be used much like the
12 traditional Hawala system of money movement – only with a 21st Century twist.

13 Additionally, unlicensed cryptocurrency money transmission businesses – such as
14 the defendant's – are critical to the operation of Darknet marketplaces such as Silk Road,
15 Silk Road 2.0, Alpha Bay, *etc.*, as these markets require payment for their illicit goods –
16 ranging from controlled substances to stolen credit cards – via cryptocurrency. Off-book
17 businesses such as the Defendant's allow Darknet vendors to anonymously turn their
18 cryptocurrency into fiat currency, and Darknet customers an opportunity to purchase
19 illicit products with a virtually untraceable source of payment.

20 Significantly, based upon his multiple statements to HSI UCAs and SA Scott, the
21 defendant's response to the above appears to be that he is not concerned with such things
22 as long as he has “plausible deniability.”

23 Perhaps the most serious aspect of the defendant's offense, however, is the fact that
24 not only did he operate a business that is tailor-made for money laundering in the 21st
25 Century, but also, continued to do so after being encountered by HSI Blaine agents in
26 May 2017. While the defendant did register with FinCEN as a money transmission
27 business shortly after being encountered, such registration appears to the government to
28 be nothing other than an attempt to create a paper record of compliance. This assertion is

1 supported by the fact that not two weeks after he registered with FinCEN, defendant
2 conducted a transaction with HSI UCAs where the purpose of the meeting – in addition
3 to moving \$20,000 in drugs proceeds to Mexico via cryptocurrency – was to discuss how
4 to integrate this cryptocurrency into the legitimate financial system once in Mexico.

5 Ultimately, the defendant was not just failing to employ any anti-laundering
6 measures in the operation of his money transmission business, but based upon his
7 interactions with HSI undercovers, it appears that it was his business model to cater to
8 them.

9 **2. History and Characteristics of the Defendant.**

10 The defendant's history and characteristics are generally mitigating. This is the
11 defendant's first contact with the criminal justice system in the United States or Canada.
12 Furthermore, the defendant is college-educated and prior to engaging in his unlawful
13 money remission business, had periods of gainful employment.

14 The fact that the defendant is intelligent and well-educated also works against him.
15 Based upon a forensic review of the defendant's digital device, seized at the time of his
16 arrest, it appears that the defendant was involved in the world of bitcoin since at least
17 2013. Furthermore, based upon a review of these same texts, it appears that as of no later
18 than 2014, the defendant was aware of the fact that at least under the law of some states
19 in the U.S., operating a cryptocurrency exchange business such as his was illegal.
20 Despite this knowledge, and notwithstanding his education and intelligence, the
21 defendant chose to repeatedly come to the U.S. to engage in conduct that he knew was
22 unlawful.

23 **3. Affording Adequate Deterrence to Criminal Conduct, Promoting** 24 **Respect for the Law, Protecting the Public from Further Crimes of the** 25 **Defendant, and Providing Just Punishment.**

26 The recommended sentence is necessary to protect the public and to promote
27 respect for the law. The government has no information that the defendant ever operated
28 as a Darknet vendor. That said, and as noted above, despite the fact that the defendant
never directly engaged in a Darknet transaction, the government has little doubt that his

1 business facilitated such illicit transactions – both on the customer and vendor side. Such
2 conduct, though concededly not as significant as that of the Darknet vendor who
3 distributes illicit products, poses a serious public safety risk.

4 Relatedly, the recommended sentence is necessary to deter others from
5 committing similar crimes. While the government acknowledges that pursuant to his
6 conviction, the defendant will forfeit substantial assets, in the government's mind, such
7 sanction is not a sufficient deterrent. Rather, those who would seek to engage in a
8 business that has the potential to be as lucrative as unlicensed money transmission, need
9 to know that not only will the illicit proceeds and facilitating property related to their
10 offense be seized, such conduct will also result in substantial time in custody.

11 Ultimately, imposition of the recommended sentence sends the necessary message
12 that, although white-collar and financial in nature, serious misconduct such as the
13 defendant's will be met with serious sanction.

14 V. CONCLUSION

15 For the foregoing reasons, the government requests that the Court sentence the
16 defendant to a total sentence of twelve months and one day, followed by a period of
17 supervision of three years.

18 DATED this 4th day of May, 2018.

19 Respectfully submitted,

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